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November 2010 Monthly Report for MTC

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Re: Monthly Report for November 2010

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Election Recap

This November was eventful in terms of the historic Congressional mid-term elections. Republicans gained 63 seats in the House, establishing a strong majority, and a large number of established members lost their elections — including long-time transportation advocate Representative Jim Oberstar (D-MN). Despite a number of close races, notably Senator Barbara Boxer (D-CA) and Rep. Jerry McNerney (D-CA), all of the members from the San Francisco Bay Area delegation retained their seats.

Additionally, Rep. John Boehner (R-OH) will be the Speaker of the House in the 112th Congress, while the current Speaker, Rep. Nancy Pelosi (D-CA), will return as Minority Leader. Although Democrats retained the majority in the Senate, Senate committee memberships will be substantially different in the 112th Congress after taking into account Senate retirements, the six seat losses, and the Committee party re-distributions (more on this below).

Congress returned after the elections to begin the lame-duck session. During the first week, the focus was directed towards establishing priorities for this session and defining leadership roles for the next Congressional session. Legislative movement, along with Committee assignments, will take place in December.

Lame-Duck Session

In December, legislators will need to address a number of issues during the lame-duck session. Among the top priorities affecting transportation are:

- *Taxes*: Congress will need to decide how to extend the Bush-era tax cuts, which expire at the end of the year, as well as address a number of other expiring tax provisions, including the Build America Bonds and the transit commuter benefit that is set to decrease by almost 50 percent on January 1, 2011.
- *Continuing Resolution (CR)*: Congress was unable to pass a full FY 2011 Appropriations bill by the beginning of the fiscal year. In order to keep the government funded, they passed a CR to temporarily continue funding federal agencies at their FY 2010 level through December 3, 2010. To prevent a federal government shut-down, Congress will need to pass another CR before that date, and then move towards finalizing the FY 2011 Appropriations legislation.
- *SAFTETA-LU Extension*: Congress will need to pass a sixth extension of existing transportation law before the current extension expires on December 31, 2010. The extension will likely be for nine months.

Other priority items include the New START Treaty (U.S.-Russia treaty), unemployment benefits, the U.S. Military's "Don't Ask, Don't Tell" policy, childhood nutrition, and immigration reform.

Surface Transportation Authorization

The most recent extension of current transportation law, also known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), is set to expire on December 31, 2010. Since transportation legislation will not be completed during the lame-duck session, SAFETEA-LU will be extended again. During the extension period, new legislation will be crafted; however, if new legislation is not passed by the end of 2011, it is likely that transportation authorization will be further delayed until after the 2012 presidential election cycle. Incoming majority staff in the House Transportation and Infrastructure (T&I) Committee has indicated support for a six to nine-month extension, and both the Senate Environment and Public Works (EPW) and the Banking, Housing, Urban Affairs Committees will support a nine month extension through the 2011 fiscal year.

While Republicans gained six seats in the Senate, Democrats held on to their majority. Key transportation leaders successfully defended their seats, including Senate EPW Chair Barbara Boxer (D-CA). Senator Christopher Dodd (D-CT), current chair of the Senate Banking, Housing, and Urban Affairs Committee (where the transit portion of the surface transportation authorization legislation is written), is retiring at the end of this year. The chairman position will be filled by Senator Tim Johnson (D) of South Dakota. Senator Jay Rockefeller (D-WV) will continue to chair the Senate Committee on Commerce, Science and Transportation. These committees will continue forming draft language for the surface transportation authorization. In addition, Senator Frank Lautenberg (D-NJ) will likely re-introduce the MTC-supported Focusing Resources, Economic Investment and Guidance to Help Transportation (FREIGHT) Act in the next Congress, which would incorporate freight policy into the federal surface transportation program.

With the new Republican majority in the House and the exit of Rep. Oberstar, the draft transportation legislation (the Surface Transportation Authorization Act of 2009) will be replaced by new language. Rep. John Mica (R-FL), currently ranking minority member of the House T&I Committee, is slated to be the next chairman of the House T&I in the 112th Congress — the incoming ranking minority member will be Rep. Nick Rahall (D-WV).

House Surface Transportation Authorization Priorities

Shortly after the elections, Republican staff detailed Rep. Mica's goals for the next surface transportation authorization bill. Mr. Mica's three overarching priorities for the new bill are: 1) stabilize the Highway Trust Fund (HTF), 2) better leverage existing revenue sources, and 3) streamline project delivery.

1. Stabilize the Highway Trust Fund (HTF)
 - a. He will not support a gas tax increase — the program needs to be brought in line with revenues.
 - b. This would come from a refocus on what is the responsibility of the federal government, specifically the National Highway System.
 - i. Defining the National Interest — looking back to roots in the 1950's: interstate commerce and travel.
 - ii. Streamlining the Surface Transportation Program.

- iii. Performance measures should be part of next bill, but they should be to restrict flexibility on states if they do not meet the measures, e.g., keeping bridges in a state of good repair.
 - iv. Re-think programs such as Transportation Investment Generating Economic Recovery (TIGER) I and TIGER II and High Speed Rail.
 - c. Reassess federal obligation levels.
2. Better leveraging of existing revenue sources.
- a. Encourage Public Private Partnerships (PPPs) (with the U.S. Department of Transportation facilitating).
 - b. Use tolls for new road capacity, but not for existing road capacity.
 - c. State infrastructure banks.
 - d. Continue private activity bonds, but with lower cap.
 - e. Expand the Build America Bond program (of which Mr. Mica is very supportive) and create a new class of qualified tax credit bonds.
 - f. Rather than create a new national infrastructure bank, expand the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Railroad Rehabilitation and Improvement Financing (RRIF) program.
3. Streamline project delivery process
- a. Based on the 435-day model. When the Interstate 35 bridge in Minneapolis collapsed in 2007, a number of planning/environmental review requirements were either waived or allowed to be completed retroactively. As a result, the bridge was rebuilt in 435 days. The idea of this model is to cut through the red tape, streamline the environmental review process, and encourage agencies to process paperwork in a timely manner.
 - b. Cut current project delivery time in half, from 15 years to seven, by reassessing environmental review processes (including substituting state processes for NEPA, if the state's statutes are more expansive), and speeding up agency process and deadlines.
 - c. Transit Small Starts as a model for streamlining the New Starts Program, which takes too long.

The incoming majority is still determining how to put all this together and wants to listen (note that it is likely that Mr. Oberstar's draft bill will be scrapped, and they will start from scratch). Listening sessions will be held around the country in the coming months, along with a number of hearings. They hope to work together to make this a bipartisan bill.

Debt Commission Reports

In November, the President's National Commission on Fiscal Responsibility and Reform released a report with their initial recommendations on reducing the federal deficit. A number of other reports from conservative, progressive, and bipartisan groups followed the release of the Commission's report. The recommendation to increase the gas tax, with at least partial revenue directed to fund transportation programs, was a common thread in these reports. Suggestions ranged from a 15-cent increase to a 50-cent increase (see Agenda Item 4 for more information).

Earmark Ban

In mid-November, Republicans in the House of Representatives voted to ban earmarks from future legislation in the 112th Congress. While the caucus has approved similar motions before, this ban on earmarks would have extended to all members of the House of Representatives because of the Republican majority.

Senate Republicans also back a no-earmarks rule but on November 30, the Senate failed by a large margin to approve a bipartisan amendment to ban earmarks through FY 2013. This likely means that earmarks will remain in place in the final FY 2011 Appropriations bill.

November 2010 Meeting Updates

Rep. Nick Rahall (D-WV)

On November 18, we met with Rep. Nick Rahall (D-WV), the incoming Ranking Minority Member of the House T&I Committee. We discussed the transportation authorization at length.

Senate EPW Committee

In November, we spoke with Senate EPW majority staff regarding transportation plans for the next Congress.

Senate Banking, Housing, Urban Affairs Committee

Throughout the month of November we discussed surface transportation authorization legislation and funding with majority staff from the Senate Banking, Housing, Urban Affairs Committee.

MTC staff

We began discussions with MTC staff in preparation of MTC Commissioners' 2011 legislative visit to Washington, D.C. and the annual reception.